United Nations CAC/COSP/IRG/2018/2

Conference of the States Parties to the United Nations Convention against Corruption

Distr.: General
10 April 2018

Original: English

Implementation Review Group
Ninth session
Vienna, 4–6 June 2018
Item 3 of the provisional agenda*
Performance of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption

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Note by the Secretariat**

Introduction

1. During the fifth session of the Conference of the States Parties to the United Nations Convention against Corruption, the Secretariat presented a note entitled "Translating commitment into results: impact of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption" (CAC/COSP/2013/14). In its decision 5/1, the Conference decided that the Implementation Review Group should begin promptly to collect, with the support of the Secretariat, and discuss relevant information in order to facilitate the assessment of performance of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption. The Conference also decided that the Group should include in its future sessions an agenda item allowing for the discussion of such information.

2. While document CAC/COSP/2013/14 was well received, it was primarily based on the experiences of Secretariat staff who had participated in country reviews or provided technical assistance to States parties in preparation for, during or subsequent to the country review process. However, encouraged by the discussions during the fifth session and, subsequently, the resumed fifth session of the Group and in line with Conference decision 5/1, in February 2015, the Secretariat addressed a note verbale to States parties that had completed their reviews, inviting them to submit information on any action they had taken in follow-up to gaps or needs identified during the review. The information received in response was in part included in the note prepared by the Secretariat for the sixth session of the Conference, entitled "Assessment of the

* CAC/COSP/IRG/2018/1.

** The present document was submitted after the deadline so as to include the most recent information.

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performance of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption" (CAC/COSP/2015/6).

3. In its resolution 6/1, the Conference of the States Parties encouraged States parties to continue voluntarily sharing information on good practices, experiences and relevant measures taken after the completion of their reviews, including information related to technical assistance, and to consider providing such information to the Secretariat for publication on its website.

4. Recalling its previous request for information and in line with Conference resolution 6/1, in April 2016, the Secretariat sent out a second note verbale, in which it encouraged States parties to submit information on good practices, experiences and measures taken after the completion of the reviews, as well as on technical assistance received or provided as related to needs identified in the country review reports. The aim of that note verbale was to solicit further information that could serve as a basis for analysis and discussion on the performance of the Mechanism by the Group during its resumed seventh session. The information received in response to the notes verbales, as well as information received during sessions of the Implementation Review Group and the country reviews, was consolidated in document CAC/COSP/IRG/2016/12.

5. Subsequently, the information was presented to the Conference of the States Parties at its seventh session, in November 2017, in the note by the Secretariat containing an analysis of good practices, experiences and relevant measures taken by States parties after completion of the reviews during the first implementation review cycle (CAC/COSP/2017/12). As of September 2017, 160 States had completed their executive summaries under the first cycle of the Implementation Review Mechanism. Document CAC/COSP/2017/12 reflected not only the 31 written submissions from States that the Secretariat had received, but also information contained in numerous statements made by representatives of States parties at the seventh, resumed seventh and eighth sessions of the Implementation Review Group. The statements had been gathered by the Secretariat and added another 34 States to the list. Information on measures to combat corruption taken by another 30 States parties as a direct result of the reviews was gathered either in the context of the ongoing reviews or through the delivery of technical assistance. In total, information from 95 States parties,[1] or 60 per cent of the States that had finalized their reviews, was analysed.

6. Since CAC/COSP/2017/12 was drafted, only two additional submissions have been received. The information contained therein did not change the analysis that was provided to the Conference of the States Parties at its seventh session, in November 2017. The additional information has been added to the country profile pages on the website of the Implementation Review Group.

A. Time frames established for the implementation review process

7. The second cycle of the Implementation Review Mechanism was launched at the sixth session of the Conference of the States Parties, held in St. Petersburg, Russian Federation, from 2 to 6 November 2015, by means of Conference resolution 6/1, on the

[1] Afghanistan, Algeria, Argentina, Armenia, Australia, Austria, Azerbaijan, Bangladesh, Benin, Botswana, Brazil, Brunei Darussalam, Burkina Faso, Cambodia, Cameroon, Central African Republic, Chile, Colombia, Cook Islands, Costa Rica, Côte d'Ivoire, Cuba, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, Finland, France, Gabon, Ghana, Greece, Guatemala, Guinea, Guinea Bissau, Honduras, Hungary, Indonesia, Iran (Islamic Republic of), Iraq, Israel, Italy, Kenya, Kiribati, Kuwait, Liberia, Liechtenstein, Madagascar, Malawi, Malaysia, Mali, Mauritania, Mauritius, Mexico, Micronesia (Federated States of), Montenegro, Morocco, Namibia, Nauru, Nepal, New Zealand, Nicaragua, Niger, Nigeria, Oman, Pakistan, Panama, Paraguay, Peru, Philippines, Portugal, Russian Federation, Sao Tome and Principe, Saudi Arabia, Senegal, Slovakia, Solomon Islands, Spain, Sri Lanka, Sudan, Swaziland, Sweden, Switzerland, Thailand, Togo, United Arab Emirates, Uganda, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Vanuatu, Venezuela (Bolivarian Republic of), Zambia and Zimbabwe.

continuation of the review of implementation of the United Nations Convention against Corruption. At the subsequent intersessional meeting, held in Vienna in June 2016, the drawing of lots was held for the scheduling of the country reviews in the second cycle, which was organized as follows: year one — 29 States; year two — 49 States; year three — 36 States; year four — 35 States; and year five — 29 States. As of April 2018, six executive summaries from the second cycle had been finalized, rendering the information base too limited to allow for any identification or analysis of impact emanating from the second cycle. Despite the early scheduling of the reviews, and as noted by the Secretariat in its oral updates to the Conference of the States Parties during its seventh session, delays were identified in the performance and progress of the second review cycle. The Secretariat also highlighted that any further delays could jeopardize the successful and timely conclusion of the second cycle (see CAC/COSP/2017/14, para. 57).

8. In order to more accurately assess the reasons behind the delays encountered in the second cycle, the present document draws on the statistical data that have already been presented in part in the note by the Secretariat on progress in the implementation of the mandates of the Implementation Review Group (CAC/COSP/IRG/2018/3). In doing so, a comparison has been made between the performance of the Mechanism during the first two years of the first and second cycles, to seek to ascertain at what stage of the review the delays occur. The analysis focuses on two critical points in each country review, namely the time that States parties were required to submit their self-assessment checklist and the finalization of the executive summary.

9. According to the Guidelines for governmental experts and the secretariat in the conduct of country reviews, the checklist should be submitted two months after the commencement of the reviews and the full review should be completed within six months. The learning process of the Implementation Review Mechanism has shown that completion of the country reviews has never taken place within six months. There are a number of reasons for this, including translation requirements, scheduling difficulties for the country visits and delays in the submission of additional information following the country visit. Nevertheless, the submission of the checklist has remained a cornerstone of the review process, a sine qua non and the point in time when the country review can start in earnest. As such, any delays in the submission of the checklist inevitably resulted in a delay of the country review as a whole. Figure I below shows an overview of the time frames associated with the country reviews conducted in years one and two of the first review cycle.

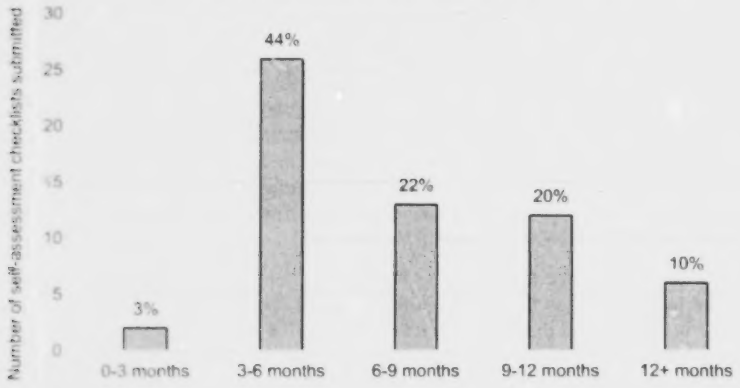
10. The starting date for the review remained the time of the drawing of lots for the purpose of country pairings for the upcoming year of reviews.

B. Progress in the submission of the self-assessment checklists

11. The following figures were compiled to help evaluate the time taken between the start of a review and the submission of the self-assessment checklist. While it would have been ideal to have correlated this information with the overall time to complete a review, the limited number of completed reviews for the second cycle did not lend itself to such an analysis. The figures cover the country reviews conducted in years one and two of both review cycles.

Figure I

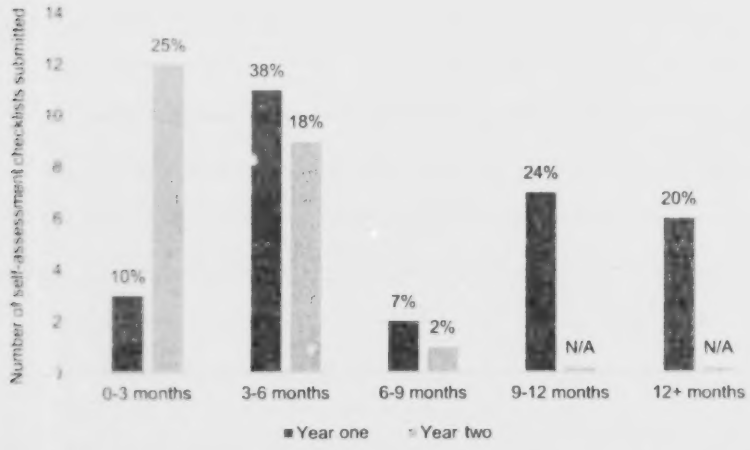
Overview of time taken for States under review in the first review cycle to submit their self-assessment checklists (total 64 States parties)



12. Of the 24 States parties that were under review in year one of the first review cycle, all but four submitted their checklists within 12 months of the commencement of their country reviews. Those four States submitted their checklists within 18 months. In the second year of the first review cycle, during which 40 States parties were to be under review, only two States parties submitted their checklists more than 12 months after their reviews had begun. Both did so within 18 months of the commencement of their country reviews. It should be noted that at the beginning of the mechanism, a large number of checklists required additional information, which led the Secretariat to communicate with the State party under review to highlight gaps and deficiencies in the checklist. Such requests for completion were frequently done before sharing the checklists with the reviewing States parties, adding time to the overall review.

Figure II

Overview of time taken for States under review in years one and two of the second review cycle to submit their self-assessment checklists (total 77 States parties)



13. By way of comparison, the number of reviews to be carried out during years one and two of the second cycle was 29 during year one and 48 during year two. At the time of drafting the present document, four checklists had not yet been submitted for the reviews of the first year of the second cycle, while more than half, or 26, of the

reviews for year two were still to be submitted 10 months after the beginning of the review (see figure II).

C. Training courses for focal points and governmental experts participating in the Implementation Review Mechanism

14. In accordance with paragraph 32 of the terms of reference of the Mechanism, and paragraph 11 of the guidelines for governmental experts and the secretariat in the conduct of country reviews, the secretariat organizes periodic training courses for focal points and governmental experts participating in the reviews. Those training courses are aimed at familiarizing the focal points and experts with the guidelines to increase their capacity to participate in the review process.

First review cycle

15. To date, over 1,800 experts have been trained in the framework of the first review cycle, thus contributing to the creation of a global community of anti-corruption experts. National training courses and ad hoc assistance have been provided to over 40 countries and, since June 2013, seven regional training courses have been organized.

Second review cycle

16. As of April 2018, six regional training sessions and four global training sessions have been organized for the second review cycle. In particular, training sessions were being organized back to back with sessions of the Implementation Review Group to save costs for both the States parties under review and the Secretariat. In addition, targeted assistance was available to States parties under review in support of their reviews.

17. At the time of writing the present report, over 390 focal points and governmental experts had participated in the regional and global training sessions for the second review cycle.

D. Analysis and the way forward

18. In comparing the time required by States parties to submit their checklists during the first and second cycles, the second cycle should have benefited from the experience and insights gained during the first cycle. In document CAC/COSP/2013/14, paragraph 52, the Secretariat highlighted how the review of chapter II of the Convention, in being very far-reaching, was also likely to require national consultations among many departments and agencies. It was anticipated that those consultations could lead to delays, in particular when it came to gathering sufficient information to provide a well-substantiated information base for the reviews. In a bid to pre-empt those delays, the Secretariat made several efforts to support States in their tasks as States parties under review, as set out below.

Guidance note

19. During the seventh session of the Implementation Review Group, held in Vienna from 20 to 24 June 2016, the Secretariat issued, in all official languages of the United Nations, guidance on filling in the revised draft self-assessment checklist on the implementation of chapters II and V of the Convention (CAC/COSP/IRG/2016/CRP.1). That guidance was extensively reviewed with the States parties during a series of meetings in Vienna and the States that used that guidance have submitted notably higher-quality self-assessment checklists.

Providing training opportunities, with priority for States parties under review

20. The Secretariat has made ongoing efforts to alert States parties of delays anticipated before the commencement of reviews. To that end, training courses were organized for focal points and governmental experts ahead of years two and three of the second cycle.

21. The early training of focal points prior to the commencement of country reviews resulted in a majority of focal points being nominated before the starting date of the country reviews. It should be noted that all States parties under review under years one and two of the second cycle were invited on several occasions to attend different training workshops.

22. With a view to encouraging the early nomination of focal points for year three of the second cycle, four training courses for focal points were being organized at the time of writing the present report: one in Panama City, from 17 to 20 April 2018; one in Moscow, from 24 to 26 April 2018; one in Dakar, from 8 to 10 May 2018; and one in Vienna, on 7 and 8 June 2018. The latter was scheduled to be held back to back with the ninth session of the Implementation Review Group. Again, it was anticipated that, through those courses, all States parties under review in year three of the second review cycle would have been offered an opportunity to avail themselves of training on the second review cycle prior to the start of the review.

Anticipation of continued delays in the country reviews

23. The States parties under review in the second cycle have frequently cited chapter II, on prevention, as being at the root of their delays in submitting the self-assessment checklists. The need to consult a considerable number of stakeholders, in particular in federal or multi-jurisdictional States, has further complicated matters, as information and inputs have frequently been sought at both the state and federal levels. A lag was identified in the submission of the self-assessment checklists, in particular for the States parties undergoing their review in year two of the second cycle.

24. Clearly, delays can and do occur throughout the country reviews. However, the initial delays in submitting the self-assessment checklist remained of increasing concern to the Secretariat. Ten months after the commencement of year two of the second cycle, over half of the States parties under review have yet to submit their self-assessment checklists. The Secretariat has also noted that a number of States that were acting as reviewing parties in year one have since come under review themselves in year two and vice versa, causing an increased workload for all involved. The spillover of those delays to subsequent years of the second cycle has already started having a negative impact on the capacity of States, as well as of the Secretariat, to carry out both the delayed reviews as well as the subsequent year's reviews at the same time.

Way forward

25. While it is too soon to compare in a comprehensive manner the different steps in the country reviews for the first and second cycles, based on the delays experienced in the submission of the self-assessment checklists, there is reason for serious concern with regard to the duration of the individual country reviews in the second cycle and the resulting overall duration of the cycle.

26. The Secretariat will continue monitoring the overall progress in submissions of checklists and completion of reviews, and keep the Group informed of the performance of the Mechanism's second cycle.

27. The Group may wish to consider ways to encourage all States parties to redouble their efforts to prevent any further delays, which put at risk the good performance of the Mechanism.